
OLR Bill Analysis

sHB 6111

AN ACT CONCERNING THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT.

SUMMARY:

This bill adopts certain provisions of the Uniform Military and Overseas Voters Act, which the Uniform Law Commission released in July 2010 to extend to state and local primaries and elections (regular and special) absentee voting procedures for military and overseas voters not covered by federal law. Generally, the provisions apply to (1) members of the armed forces, (2) their spouses or dependent family members living where they are stationed, and (3) other U.S. citizens residing or traveling outside the country ("military and overseas voters").

Among other things, the bill:

1. establishes a process for distributing absentee ballots to military members being deployed,
2. requires the secretary of the state and local election officials to implement an electronic free-access system that military and overseas voters can use to determine whether their absentee ballot applications and ballots have been received,
3. requires town clerks to request e-mail addresses from military and overseas voters registering to vote,
4. authorizes certain military and overseas voters to request permanent absentee ballot status, and
5. requires that town clerks prepare election notices at least 100 days before regular elections and as soon as practicable before special elections.

The bill specifies that its electronic communication provisions modify, limit, and supersede the federal Electronic Signatures in Global and National Commerce (E-SIGN) Act. But they do not (1) modify, limit, or supersede E-SIGN's provisions on consumer disclosures (such as when consumers are considered to have consented to electronic disclosures) or (2) authorize electronic delivery of specified notices that are not subject to E-SIGN (see BACKGROUND).

Finally, the bill also makes technical changes.

EFFECTIVE DATE: January 1, 2014

§ 1 — 90-DAY BALLOTS FOR DEPLOYING MILITARY

By law, armed forces members and their relatives living where they are stationed may, due to military contingencies, request and receive a blank absentee ballot beginning 90 days before a regular election ("90-day ballot"). Town clerks subsequently send to them the list of candidates and questions to be voted on as soon as it is available.

The bill (1) establishes a process for distributing 90-day ballots to armed forces members (but not their families) being deployed or in the process of being deployed and (2) authorizes the secretary of the state to adopt implementing regulations.

Notice of Deployment and Request for Absentee Ballots

Under the bill, the armed forces member responsible for coordinating the deployment requests distribution of the 90-day ballots to deploying members by giving the secretary of the state notice at least one business day before the scheduled deployment or deployment process, whichever is later. The commanding officer of each member requesting a ballot, in consultation with the secretary of the state, may appoint another member to receive and distribute the ballots to members being deployed ("ballot distributor").

The notice must include the (1) ballot distributor's name, (2) number of 90-day ballots necessary for distribution, and (3) name and town of residence of each armed forces member who will receive a ballot. If the secretary receives the request notice after the one business day

deadline, she may still provide the ballots if she deems there is adequate time. However, the bill does not establish a standard for determining what constitutes adequate time.

Distribution

Deploying members may receive 90-day ballots from the secretary of the state directly or from the ballot distributor. When the secretary or ballot distributor delivers the ballots, he or she must also make available (1) voter registration cards and (2) absentee ballot applications (either the state form or the Federal Post Card Application) (FPCA) (see BACKGROUND).

The bill prohibits armed forces members from receiving the list of candidates and questions to be voted on from the secretary of the state. By law, unchanged by the bill, they receive the list from their town clerks.

Eligibility and Counting

Town clerks determine whether an armed forces member is registered to vote or eligible to register. Neither the secretary of the state nor the ballot distributor is required to determine eligibility.

The bill prohibits 90-day ballots from being counted unless (1) the armed forces member returns an absentee ballot application, request for a blank ballot, or both to the town clerk in the municipality where he or she resides and (2) his or her name is on the voter registry list for the municipality where he or she returns the ballot or he or she has submitted a voter registration card or FPCA by the close of polls on Election Day.

§ 2 — 45-DAY BALLOTS

In addition to the 90-day ballot, state law establishes a blank ballot that any elector living or traveling abroad, or members of the armed forces and their family members living with them, may use to vote in a primary or regular election. Town clerks issues these ballots, together with the list of candidates and questions, as soon as the list is available.

The bill requires town clerks to issue this ballot no later than 45 days

before the election or primary ("45-day ballot").

§ 3 — ELECTRONIC FREE-ACCESS SYSTEM

The bill requires the secretary of the state, in consultation with local election officials, to implement an electronic free-access system. It does not set a date by which the system must be in place.

The system must allow military and overseas voters to determine whether their absentee ballot applications and absentee ballots have been received. It must also allow U.S. citizens eligible to vote using a presidential ballot to determine whether their ballots have been received (see BACKGROUND).

§ 4 — E-MAIL

The bill requires town clerks to request an e-mail address from each military and overseas voter applying for admission as an elector, as part of the voter registration application. It also authorizes military and overseas voters already enrolled as electors to update their registration information by giving their town clerk their e-mail address.

The bill makes these e-mail addresses exempt from disclosure under the Freedom of Information Act and prohibits municipal officials from making them available to anyone other than their town clerk, registrars of voters, or their designees. It prohibits clerks, registrars, and their designees from using the e-mail addresses for any purpose other than (1) communicating with voters under state election law or (2) verifying their mailing address and location. Town clerks must provide a nondisclosure statement to each voter from whom they request an e-mail address or who provides one indicating that any other use is prohibited.

§ 4 — PERMANENT ABSENTEE BALLOT STATUS

The bill authorizes military and overseas voters to request and receive permanent absentee ballot status provided they have also requested that they receive absentee ballots electronically. Under the bill, town clerks must automatically send a 90-day or 45-day ballot for

each election or primary, as applicable, to each elector who has the status. The bill does not establish a procedure for determining whether a voter continues to remain eligible or for removing someone from the permanent absentee ballot status list.

The bill also requires clerks to automatically send a blank ballot for the general election to individuals eligible to use a presidential ballot and who requested a ballot for the primary preceding the election. People who are eligible to vote for federal offices by presidential ballot are not necessarily eligible to vote in a state election. Thus, it is unclear why clerks would automatically send them a blank ballot.

§ 5 — ELECTION NOTICES

The bill requires municipal election officials responsible for printing and distributing absentee ballots and balloting material (in Connecticut, town clerks) to prepare an election notice for the municipality (1) at least 100 days before a regular election and (2) as soon as practicable before a special election. The notice must have a list of questions and federal, state, and local offices that, as of the publication date, the official expects to be on the ballot.

A military or overseas voter, or a U.S. citizen eligible for a presidential ballot, may request a copy of the notice. The town clerk must send the copy by fax, e-mail, or regular mail, according to the individual's request.

The clerk must update the notice with the complete list of questions and candidates as soon as it is known for a primary or election, but not later than the date when town clerks transmit 90-day or 45-day ballots (see COMMENTS).

The bill does not require town clerks to create a notice for primaries, but it requires them to include in any update the complete list of candidates and questions to be voted on at the primary.

The clerk must post the notice and its update on the municipal website, if any.

BACKGROUND**E-SIGN**

E-SIGN (15 USC § 7001 et seq.) validates the use of electronic records and signatures. Connecticut has also enacted the Connecticut Uniform Electronic Transactions Act (CUETA) (CGS §§ 1-266 to -286), which also validates the use of such records and signatures. The two overlap significantly, although they are not identical. For example, E-SIGN applies only to interstate transactions, not intrastate transactions. CUETA provides that it supersedes, modifies, and limits the federal law except for E-SIGN's consumer disclosure provisions (CGS §§ 1-286).

The federal E-SIGN law specifies that the following notices are not subject to it:

1. court orders or notices, or official court documents required to be executed in connection with court proceedings;
2. utility cancellation or termination notices;
3. notices of eviction, foreclosure, repossession, acceleration, default, or the right to cure, under a rental agreement or a credit agreement secured by someone's primary residence;
4. notices that life insurance benefits, health insurance, or health insurance benefits are being cancelled or terminated, other than with respect to annuities;
5. notices of the recall or material failure of products that could endanger health or safety; and
6. documents required for transporting or handling hazardous material, pesticides, or other toxic or dangerous material (15 USC § 7003(b)).

FPCA

The FPCA allows applicants to submit a voter registration and absentee ballot application simultaneously. It also registers the

applicant to vote and requests absentee ballots for all regularly scheduled federal elections for the calendar year in which it is submitted.

Presidential Ballots

The law permits U.S. citizens who not registered to vote, but who are at least age 18 to apply for and vote a presidential ballot to cast a vote for president and vice president, but not any other office. The person must apply to the town clerk no sooner than 45 days before the election, and can do so up until the polls close on Election Day. The clerk must be satisfied that the applicant is eligible for the ballot, and the applicant must sign a statement under penalty of false statement that the information he or she provides is true.

Related Bill

sSB 283, reported favorably by the Government Administration and Elections Committee, authorizes military and overseas voters to return their voted absentee ballots by fax or e-mail.

COMMENTS

Conflicting Deadlines

The bill requires town clerks to update the election notice with the list of questions and candidates to be voted on and make it publicly available no later than the date when both 90-day and 45-day ballots are mailed out. The bill thus creates an internal conflict between these two deadlines (i.e., 90 or 45 days beforehand).

List Unavailable

The bill requires clerks to update the election notice no later than the date when 90-day ballots are mailed out (i.e., as early as 90 days before a regular election). However, this is before the complete list of questions and candidates is known.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 14 Nay 0 (04/05/2013)